

ABSTRACT

Zahroh, Jawahirul Umi. 10220055. 2014. *Legal Status of Basmalah Clause in Determining Validity on the Contract of Shariah*, Thesis, Department of Sharia Business Law, Faculty of Shariah, State Islamic University of Maulana Malik Ibrahim Malang. Supervisor: Dra. Jundiani, S.H, M.Hum

Keywords: *Basmalah* Clause, Validity, Contract of Shariah.

Contract of shariah is defined as a contract based on the provisions of Islamic law. In practice Contract of shariahing, *basmalah* word is included in the beginning of contract, this is intended as a *basmalah* clause. This clause is not included in the contract, but only in contracts of Shariah, this inclusion is also for distinguishing between contracts of shariah with other contracts.

This research is focused on the inclusion of *basmalah* clause in the contract of shariah which aims to understand the nature of *basmalah* clause in the contract of shariah and it is legal status to determine validity of the contract of shariah, because the inclusion of this clause is not founded in the standard preparation of contracts and the rule of law.

The method that used in this research were library research, it is directed and focused on the research of material reference relating with the legal position of the *basmalah* clause on contract of shariah. Sources of law that used is the Civil draft (Civil Code) in particular clauses wich relating to the agreement or contract, Shariah Economic Law Compilation (KHES) notably Article of the Agreement and the concepts developed among legal experts about the agreement or contract of shariah.

The results of this research indicating that the inclusion of *basmalah* clause constitute form of realization of conviction principle who each side to actualize the responsibility of vertical and horizontal. This is based on al-qur'an nash and al-hadith, so writing of *basmalah* is a necessity to get the legality contract of shariah for muslim. Because the contract is a written agreement, then *basmalah* also must be in writing (al-kitabah principle). But contract of shariah still legal if only watched from the Civil draft (Civil Code) and Shariah Economic Law Compilation (KHES) based on agreement reached each side.